

10/800,339
END5241USNPRemarksStatus of Claims:

Claims 8-20 have been canceled. Claims 1-7 are rejected. Claim 1 is amended. New Claims 21-34 have been added.

The claims were amended in accordance with the amendments above. Claim 1 has been amended to focus the claim on those aspects of the invention that are a commercial priority of the assignee. All of the amendments are fully supported by the specification, claims, and figures as originally filed. No new matter is believed or intended to be involved.

Restriction Requirement

In the Office Action dated 01/24/2006, the Office requested that the Applicant affirm the provisional election that had been made over the telephone on 01/18/2006. Applicant hereby affirms the provisional election of Group I, claims 1-7. Claims 8-20 have been canceled, though Applicant reserves the right to pursue such claims at a later time.

§ 102 Rejections:

Claims 1-7 were rejected under 35 U.S.C. §102(b) as being anticipated by Burbank et al. (U.S. Patent No. 6,689,071). Applicant respectfully traverses these rejections.

Under MPEP 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim, and the elements must be arranged as required by the claim. Under this standard, Applicant submits that Burbank et al. fails to anticipate independent claim 1.

Amended claim 1 recites a tissue receiving opening that is formed laterally in the sidewall of a sleeve. Burbank et al. fails to teach or suggest such limitations, among others, particularly in the arrangement required by claim 1. Accordingly, Applicant respectfully submits that Burbank et al. fails to anticipate amended claim 1 in accordance with MPEP 2131, and respectfully request that the rejections be withdrawn.

New claim 21 recites a lateral opening formed through a portion of a unitary sidewall. Burbank et al. fails to teach or suggest such limitations, among others, particularly in the arrangement required by claim 21. Accordingly, Applicant respectfully submits that Burbank et al. fails to anticipate claim 21 in accordance with MPEP 2131.

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Similarly, new claim 34 recites a lateral opening formed through the sidewall of a hollow sleeve. Burbank et al. fails to teach or suggest such limitations, among others, particularly in the arrangement required by claim 34. Accordingly, Applicant respectfully submits that Burbank et al. fails to anticipate claim 34 in accordance with MPEP 2131.

Applicant further submits that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Burbank et al. to obtain the invention that is presently claimed. In particular, Burbank et al. provides no motivation to provide a lateral opening in a sleeve sidewall to the extent that such an opening is presently claimed. The presently claimed invention is therefore not obvious in view of Burbank et al. in accordance with MPEP 2143.01.

Beyond the foregoing shortcomings with respect to the rejections of the independent claim, Applicant further notes that the dependent claims include additional limitations not taught or suggested in the art of record, thus forming independent basis for novelty and non-obviousness.

To the extent that the present amendments constitute a narrowing of the claims, such narrowing of the claims should not be construed as an admission as to the merits of the prior rejections. Indeed, Applicant traverses the rejections and preserves all rights and arguments. While Applicant has noted several distinctions over the art of record, Applicant notes that several other distinctions exist, and Applicant preserves all rights and arguments with respect to such distinctions.

Based on the foregoing, all pending claims are in a condition for allowance. Accordingly, Applicant respectfully requests reconsideration and an early notice of allowance.

Respectfully submitted,

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